

BEFORE THE BOARD OF REAL ESTATE APPRAISERS

STATE OF IDAHO

In the Matter of the License of:)
LEE H. MOERLES,) Case No. REA-2007-7
License No. LRA-157,)
Respondent.) **STIPULATION AND**
) **CONSENT ORDER**
)

REA\Moerles\P7066lma

WHEREAS, information having been received by the Idaho State Board of Real Estate Appraisers (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against Lee H. Moerles (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A.

1. The Board may regulate the practice of real estate appraising in the State of Idaho in accordance with title 54, chapter 41, Idaho Code.

2. Respondent Lee H. Moerles is a licensee of the Idaho State Board of Real Estate Appraisers and holds License No. LRA-157 to practice real estate appraising in the State of Idaho. Respondent's license is subject to the provisions of title 54, chapter 41, Idaho Code.

3. On January 30, 1995, the Board entered a Consent Order against Respondent in Case No. REA-02-94-006 for failure to retain a copy of an appraisal report as required by Idaho Code § 54-4109 and for failure to inspect the interior of a property after receiving a change order from a building and misrepresenting in his appraisal report that he had made an interior inspection of the property in violation of USPAP Standard 1

and Idaho Code § 54-4107.

4. On or about September 13, 1999, Respondent prepared an appraisal report for the property located at 5890 El Paso Road in Caldwell, Idaho (the “Subject Property”).

5. The Bureau of Occupational Licenses, as agent for the Board, subsequently received a complaint alleging that Respondent had violated the Idaho Real Estate Appraisers Act (the “Act”) and the Board’s rules in connection with his work on the above-referenced appraisal.

6. On or about May 14, 2004, the Bureau’s investigator requested that Respondent provide her with copies of documents including “a complete copy of the appraisal in question and the associated work file.” Notwithstanding this request and follow-up requests by the investigator, Respondent failed to provide a complete copy of the appraisal in question and the associated work file.

7. The above-stated allegations, if proven, would constitute a violation of the laws and rules governing the practice of real estate appraising, specifically Idaho Code §§ 54-4107(1)(d) and 54-4109. Violations of these laws further constitute grounds for disciplinary action against Respondent’s license to practice real estate appraising in the State of Idaho.

8. Respondent, in lieu of proceeding with a formal disciplinary action to adjudicate the allegations as set forth above, hereby admits the violation and agrees to the discipline against his license as set forth in Section C below.

B.

I, Lee H. Moerles, by affixing my signature hereto, acknowledge that:

1. I have read and admit the allegations pending before the Board, as stated above in Section A. I further understand that these allegations constitute cause for disciplinary action upon my license to practice real estate appraising in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to

confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of real estate appraising in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this Stipulation and Consent Order I am enabling the Board to impose disciplinary action upon my license without further process.

C.

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. License No. LRA-157 issued to Respondent Lee H. Moerles is hereby suspended for a period of ninety (90) days, with the entire 90-day suspension period WITHHELD provided Respondent complies with all terms of this Stipulation and Consent Order.

2. Respondent shall pay to the Board an administrative fine in the amount of Seven Hundred Fifty and No/100 Dollars (\$750.00) within thirty (30) days of the entry of the Board's Order.

3. Respondent shall pay investigative costs and attorney fees in the amount of One Thousand Six Hundred Twenty-Five and No/100 Dollars (\$1,625.00) within sixty (60) days of the entry of the Board's Order.

4. Respondent shall take a 15-unit National USPAP course from a Board-approved provider within six (6) months of the date of entry of the Board's Order. Respondent shall take and pass any examinations given at the conclusion of the course. Respondent shall submit proof of attendance and proof that he passed any given examinations within 30 days of attendance. If no examinations are given at the conclusion of the course, Respondent shall submit a letter from the course instructor

stating that no examinations were given. Said continuing education shall be in addition to any continuing education Respondent is required to obtain to maintain his license.

5. Respondent's License No. LRA-157 shall be placed on probation for a period of one (1) year from the date of entry of the Board's Order. The conditions of probation are as follows:

a. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of real estate appraising in the State of Idaho.

b. Respondent shall inform the Board in writing of any change of place of practice or place of business within 15 days of such change.

c. In the event Respondent should leave Idaho for three (3) continuous months, or to reside or practice outside of the state, Respondent must provide written notification to the Board of the dates of departure, address of intended residence or place of business, and indicate whether Respondent intends to return. Periods of time spent outside Idaho will not apply to the reduction of this period or excuse compliance with the terms of this Stipulation.

d. Respondent shall fully cooperate with the Board and its agents, and submit any documents or other information within a reasonable time after a request is made for such documents or information.

e. Respondent shall make all files, records, correspondence or other documents available immediately upon the demand of any member of the Board's staff or its agents.

6. At the conclusion of the one-year probationary period and provided Respondent has complied with all other terms of this Stipulation and Consent Order, Respondent may request from the Board reinstatement of License No. LRA-157 without restriction. Any request for reinstatement must be accompanied by written proof of compliance with the terms of this Stipulation and Consent Order. In the event the Board denies a request for reinstatement, Respondent's rights to subsequently contest the denial

shall be governed by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of real estate appraising in the State of Idaho.

7. All costs associated with compliance with the terms of this Stipulation and Consent Order are the sole responsibility of Respondent.

8. The violation of any of the terms of this Stipulation and Consent Order by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation and Consent Order.

D.

1. It is hereby agreed between the parties that this Stipulation and Consent Order shall be presented to the Board with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this settlement agreement, and if rejected by the Board, an administrative Complaint will be filed. By signing this document, Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the Complaint based on the fact that the Board has considered and rejected this settlement agreement. Pursuant to Idaho Code § 67-5252, Respondent retains the right to otherwise challenge the impartiality of any Board member to hear the allegations in the Complaint based upon bias, prejudice, interest, substantial prior involvement in the case or any other reason provided by law or for any cause for which a judge is or may be disqualified.

3. If the Board does not accept this Stipulation and Consent Order then, except for Respondent's waiver set forth in Paragraph D(2), above, it shall be regarded as null and void. Admissions by Respondent in the settlement agreement will not be regarded as evidence against Respondent at the subsequent disciplinary hearing.

4. With the exception of Paragraph D(2), above, which becomes effective upon Respondent signing this document, this Stipulation and Consent Order shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein may be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a violation of Idaho Code § 54-4107. If Respondent violates or fails to comply with this Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether or not Respondent has defaulted under this agreement. The Chief shall also serve notice of the default hearing and charges to Respondent and to Respondent's attorney, if any. Within twenty-one (21) days after the notice of default hearing and charges is served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations of default will be deemed admitted.

b. At the default hearing, the Board and Respondent may submit evidence and present oral argument based upon the record in support of their positions.


c. At the default hearing, the Board will determine whether to impose additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license.

7. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

DATED this 4 day of April, 2007.

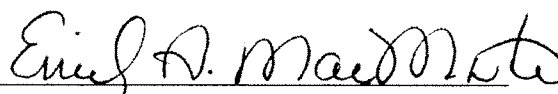


Lee H. Moerles
Respondent

I concur in this stipulation and order.

DATED this 4th day of April, 2007.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

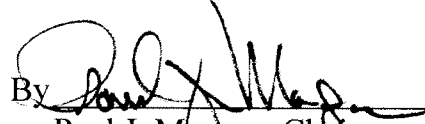
By 

Emily A. Mac Master
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-4106, the foregoing is adopted as the decision of the Board of Real Estate Appraisers in this matter and shall be effective on the 10 day of April, 2007. **IT IS SO ORDERED.**

IDAHO STATE BOARD
OF REAL ESTATE APPRAISERS

By 
Paul J. Morgan, Chair

CERTIFICATE OF SERVICE

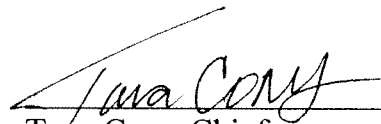
I HEREBY CERTIFY that on this 10th day of April, 2007, I caused to be served a true and correct copy of the foregoing by the following method to:

Lee H. Moerles
2374 Welford
Boise, ID 83704

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Emily A. Mac Master
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail


Tana Cory, Chief
Bureau of Occupational Licenses